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Managing for Legitimacy: Agency Governance in its “Deep” Constitutional Context

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**Managing for Legitimacy:
Agency Governance in its “Deep” Constitutional Context**

Muiris MacCarthaigh

Email: m.maccarthaigh@qub.ac.uk

School of Politics, International Studies and Philosophy

25 University Square, Queen's University

Belfast BT7 1PB, N. Ireland, UK

Martin Painter

Email: samartin@cityu.edu.hk

Department of Public Policy

City University of Hong Kong

Kowloon Tong, Hong Kong

Wai-Hang Yee

Email: whyppa@hku.hk

(corresponding author)

Department of Politics and Public Administration

The University of Hong Kong

Pokfulam, Hong Kong

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Abstract

Recent literature on bureaucratic structure has gone further than studying discretions given to bureaucrats in policy making, and much attention is now paid to understanding how bureaucratic agencies are managed. This article proposes that the way in which executive governments manage their agencies varies according to their constitutional setting and that this relationship is driven by considerations of the executive’s governing legitimacy. Inspired by Tilly (1984), we compare patterns of agency governance in Hong Kong and Ireland, in particular configurations of assigned decision-making autonomies and control mechanisms. This comparison shows that in governing their agencies the elected government of Ireland’s parliamentary democracy pays more attention to input (i.e. democratic) legitimacy while the executive government of Hong Kong’s administrative state favors output (i.e. performance) legitimacy. These different forms of autonomy and control mechanism reflect different constitutional models of how political executives acquire and sustain their governing legitimacy.

Keywords: Hong Kong, Ireland, Agency, Constitution, Legitimacy, Administrative Development

Practitioners' points

- Public managers should recognize how importantly the “deep context” of constitutional setting underpins administrative affairs and their day-to-day management decisions.
- Comparing how agencies are governed internationally helps public managers realize the assumptions and implications in their work that may not be apparent immediately from a national perspective.
- To reformers of public administration around the world, the study brings to their attention the influence of a government’s embedded legitimizing principles.

Considerable caution must be exercised when trying to introduce some international “best practices”.

How are executive agencies managed? What explains the use of various agency governance mechanisms? The “structural choice” theories of Moe (1990) and Huber and Shipan (2002) focus on the delegation to independent agencies and explain it as the result of stratagems deployed in legislative politics. Faced with uncertainty about the outcomes of inter-party competition, the ruling coalition of interests represented by the majority party will seek to reassure its supporters through granting independence to agencies. This ensures that the resources and power given to the agencies, and thus their interests, will be preserved, even in the future when an opposition party is in control. In politics where legislative majorities are uncertain and multiple veto points exist, reversal of the delegation is particularly unlikely to occur. Huber and Shipan (2002) argue that the greater the decisional capacity of the legislature (for example, unicameral parliaments and majoritarian party systems) and the higher the level of policy conflict, the less discretion will be delegated to administrative agencies. These theoretical approaches describe agency autonomy in terms of the operating rules and practices set in place by the originating statutes and attempt to explain it in terms of the politics that shape the drafting and adoption of legislation (see also Koppell 2003). However, the operationalization of rules and practices of delegation in the ongoing agency management process cannot be adequately described or explained by what is in the statute or what is negotiated in the drafting stage. Agencies set out on their own institutional trajectories, becoming political actors in their own right and carving out varying degrees of bureaucratic autonomy over time (Carpenter 2001). Delegation is generally accompanied by oversight, and the delegate can be subject to multiple influences and pressures from the delegating authority. While “independence” may be mandated by legislation, agency governance mechanisms concerned with relations between an agency and its supervising or monitoring bodies, not to mention its stakeholders, will dictate the extent of *de facto* autonomy (Verhoest et al. 2004).

These mechanisms are in part the product of technical choices about different tools and instruments—requirements for external authorization of key appointments; monitoring of outputs and outcomes by both executive and legislative organs; rewards for “good performance”; and so on. But just as there is a politics of structural choice shaped by underlying legislative dynamics, so too can the choice of these mechanisms be shaped by institutional norms and practices embedded in underlying constitutional and administrative structures, and by the political stratagems that these structures permit and encourage.

This “path dependency” argument has been well developed in political science (Thelen and Steinmo 1992; Thelen 1999; Pierson 2004). The nature of politics, argued Pierson (2004), often reinforces past decisions and shapes current choices. The electoral bases cultivated, the political platforms campaigned, the policy coalitions built, the personnel and structural choices committed in past negotiations—all these features of political life create positive feedback that contributes to the dynamic of path dependency. Recent literature on public management reform builds on this argument. Pollitt and Bouckaert (2011) coined the term “many houses” to emphasize the importance of pre-existing politico-administrative regimes (for example, features in the constitution, the nature of the central executive government, the relationship between the ministers and the mandarins, the dominant administrative culture) when seeking to reform bureaucracies. Christensen and Lægreid (2001, 129–30) propose a “transformative” approach to understanding the process of administrative development, whereby the actions of key decision-makers are curtailed by wider contextual influences such as the technical and institutional environment, existing cultural processes, and formal structures.

In this article, we build on these works by exploring in some detail the relationship between the underlying type of constitution and the variety in assigned autonomies and modes of control in bureaucratic organizations. Our analysis focuses on the impact of constitutional

differences on the management of government agencies in two jurisdictions: Hong Kong and Ireland. While both share many traditions inherited from the United Kingdom, they differ in terms of their primary constitutional regime type.

Ireland achieved self-rule as a parliamentary representative democracy within the British Commonwealth shortly after World War I, before becoming a republic in 1949. It has always used a cabinet form of government, with the executive formally appointed by the lower house. In contrast, the political executive in Hong Kong has never been appointed by a popular assembly but instead by first the British colonial government and then, after 1997, by the Chinese government. We propose that this basic difference in constitutional regime (parliamentary democracy versus non-elected political executive) has determined in large part the character and form of agency governance in both jurisdictions.

Our research questions are as follows: Are there any significant differences in the assignment of agency autonomies and in the use of various agency control measures between Hong Kong and Ireland? Might these differences be explained by the dominant underlying mechanisms of acquiring and sustaining legitimacy, as stipulated by the constitutions of the two polities?

Modes of Legitimization

The Westminster model has been aptly described as a case of “input democracy,” namely a system in which the chain of democratic control runs from the citizenry, by way of elections and the national legislature, through the political executive and thence to the “end products” delivered by the bureaucracy (Goodin 2004; Peters 2010, 2011). Input democracy posits *ex ante* control of the policy process and public administration, accompanied by supervision and monitoring of outputs by elected representatives. In the “output democracy” model, in the absence (or severe weakening) of such democratic institutions on the input side, direct forms of control exist between the political/bureaucratic executive and the citizenry. Fritz Scharpf

(1999) used the phrase “output democracy” to describe the nascent accountability mechanisms of the European Union.

A useful and parallel distinction in this context is between “process legitimacy” and “performance legitimacy” (Pierre et al. 2011). In the former, a decision is legitimate if it follows the correct procedures for democratic input, while in the latter it is legitimate if it achieves a result that is to the citizens’ satisfaction. Zhao (2009) argues that the contemporary political tactics of the ruling Communist Party reflects this notion of performance legitimacy: The “mandate of heaven,” a legitimacy claim by dynastic rulers in the Chinese state tradition, is to be earned through virtuous conduct and benevolent rule.

Some scholars argue further that the quality of output is more significant in conferring legitimacy on a political system than the quality of democratic input, as observed from the modes of legitimization adopted by many governments across the world (Rothstein 2009). Peters (2010) and Christensen and Lægreid (2011) identify a recent tendency for Western democracies to adopt forms of legitimization that reflect output rather than input models. The roots of these changes are described in long-term shifts in the character of Western democratic political institutions: the decline of party membership, the growth in the power of bureaucracies and special interests, and the shift in the locus of power away from the formal governing institutions of the nation state to local, national and transnational governance networks. Moreover, the emergence of New Public Management (NPM) may be associated with this trend, where the emphasis is on results management rather than input controls of spending, hiring and other administrative processes; the introduction of citizen participation to public-service delivery units (citizens’ charters, “one-stop-shops,” and so on); and the move from direct ministerial department provision of services to more agency-based modes, including outsourcing to service providers who might be in competition with each other (Kamensky 1996; Thompson 2000; Christensen and Laegried 2010).

Both recent “agencification” and earlier waves of independent agency creation (Koppell 2003; Pollitt et al. 2004) relied heavily on logics of functional effectiveness and output performance (directly contrasted with logics of input control). Agencies were separated from generalized ministerial control over resource inputs and administrative processes. These developments have blurred the direct and unified accountability mechanisms of ministerial control, replacing them with multiple and more complex forms of mutual and direct accountability (including market accountability) at the point of production and delivery of services.

The observation that traditional input democracies are becoming more “output” oriented through the adoption of NPM suggests that the very existence of NPM may itself be a contributing factor. However, from the accounts given by Peters (2011) and others, NPM seems to be a feature of underlying political shifts such as changes in electoral politics and party systems. The management mechanisms favored in NPM models find a receptive audience in governments whose political tactics increasingly seek output rather than input legitimacy. That is to say, the extent to which various input- and output-based agency governance mechanisms reflects the constraints and opportunities of the political and constitutional structures in which executive governments are embedded. Reform waves such as NPM bring tools and techniques on the output side to international prominence, but uptake and implementation are strongly informed by these underlying political features, or changes in them.

Hong Kong and Ireland: Similarities and Differences

As former British colonies, both Ireland and Hong Kong have inherited the Westminster/Whitehall tradition, a merit-based, politically neutral civil service, organized into ministerial departments, directed and overseen by the political executive (Halligan 2010,

133–4). Common-law principles of legality and the equality of citizens and governments before the law were implanted in both jurisdictions and survive to the present day. Both jurisdictions have also gone through similar processes historically when they chose to set up statutory bodies and boards, including independent regulatory agencies. And both jurisdictions have been influenced to varying degrees by recent waves of reforms, including agencification, performance management and outsourcing. However, the two jurisdictions differ significantly in their constitutional setup and corresponding institutional arrangements. The most basic difference is that Ireland’s political leaders are elected and depend on a majority in the elected parliament to govern but Hong Kong’s political executive is appointed—formerly by the colonial government in the UK, and now appointed by the Chinese government following a “small circle” vote by some 1,000 Hong Kong citizens. A semi-elected legislature in Hong Kong mimicked some of the supervisory and accountability regimes of the British parliament (such as a public accounts committee), but, even as the Legislative Council’s franchise was increasingly liberalized in the years approaching the handover in 1997, this body played no role in constituting the government of the day. (See Table 1 for some background information on both jurisdictions.)

As a legacy of its long history as a British colony before the recession to China in 1997, Hong Kong is described as an “administrative state” (Harris 1978; Painter 2005). For most of its existence it has been governed by bureaucrats under the control of a small appointed secretariat led by a chief executive (formerly the governor). The main features of this unitary, “executive-led” colonial system persisted into the post-handover period. Societal elites—the professions, business groups, and representatives of organized labor and other social groupings—were recruited to assist the political executive through various consultative or advisory mechanisms. A civil-service examination selected the generalist elite administrative class of the career civil service (from which the senior governing ranks were ultimately

drawn). Essentially, Hong Kong was governed by a small and closed group of very well remunerated and generally competent administrative officers, while societal demands and views about the government were co-opted, or “administratively absorbed,” into its large number of advisory bodies (King 1975; Yee 2006).

The ministerial body of government secretariat and policy bureaux is chiefly responsible for major political and policy decision-making and coordination. Beneath this, a variety of government agencies have evolved, somewhat haphazardly, to deal with particular administrative matters. Bureaucratic agencies in Hong Kong, whether government departments, non-departmental or related bodies (for example, statutory bodies), were required to develop close contacts with their societal stakeholders, as a result of which they often possessed important information about the preferences of these stakeholders (Lam 2005). As a result, they became increasingly indispensable for the delivery of quality services and the formation of relevant government policies.

To maintain public support, Hong Kong governments depend in large part on the effectiveness of public administration (quality of services, sustained economic growth, absence of corruption, etc.) and rather less on the limited mechanisms that provide citizens with the power to participate effectively in political life (Lo 2001). Their heavy reliance on performance for legitimacy may be demonstrated by the “governing crisis” (So and Chan 2002; Lo 2001) in the first decade after the handover. Tens of thousands of citizens, triggered by the proposed Anti-subversion Bill, protested against the government amid governing failures such as the plummeting of housing prices after the Asian financial crisis and the incompetent handling of the SARS epidemic. Eventually, the first chief executive in the post-colonial era stepped down.

Ireland is a parliamentary democracy with a competitive political-party system. Political executives result from parliamentary majorities. The Ministers and Secretaries Act of 1924

formalized the use of government departments, staffed by civil servants and controlled directly by ministers, as the core structure of the administrative system. This Act created the legal concept of the minister as a “corporation sole.” It determined that all actions of the department under the minister’s control would be undertaken in his or her name: In effect, ministers and their departments are one and the same. This arrangement remains the fulcrum of parliamentary oversight of the bureaucracy.

The departmental or “established” civil service is the core of the wider public bureaucracy, charged principally with policy formulation and the implementation of the decisions of the political executive. It perpetuated the Whitehall model of political-administrative organization and retained the common-law legal system. Recruitment is open and meritocratic, and, until recently, entry to the middle to senior levels was restricted to serving bureaucrats only. The system emphasizes generalist skills, with most civil-service careers characterized by movement between different policy areas. Similar to many democratic regimes, Ireland seeks to ensure input or process legitimacy in its government operations.

In terms of bureaucratic development, government in Hong Kong was transformed with rapid social and economic development from the end of World War II on. The arrival of refugees from China created new demands for basic welfare and security. The administration expanded its role into the provision of public housing, education and health services. Rapid urban development required public investment in infrastructure, leading to new professional and administrative capabilities within the public sector and a growth in the size of government. There was a corresponding rapid growth in the number of government bodies of various types. Over 60 percent of existing bodies were created after 1980 (Painter 2012, 345–7), and the number of public servants grew as a result: Between 1970 and 1990, the civil service grew from approximately 95,000 employees to close to 200,000 (Scott 2005, 67–68).

The proliferation of non-departmental bodies in the past thirty years is not unique to Hong Kong. Though the Irish civil service continues to be central to policy development and implementation, an ever-growing number of “state agencies” play an increasingly important role. This increase accelerated after 1990, in tandem with a period of rapid economic growth. These bodies, while all formally under the control of a minister and his or her department, are often conferred with considerable policy autonomy in light of the requirement for independence in decision-making and regulation.

The common-law administrative system has allowed for the emergence of a great variety of organizational forms and governance arrangements within the Irish public service. This organizational “zoo” reflects political priorities, attempts to separate the roles of “purchaser” from “provider,” as well as pressures from the European Union (MacCarthaigh 2012). Most, but not all, of the agencies have also had some form of governing authority or board, usually made up of stakeholder appointees but with considerable room for ministerial patronage also.

The Influence of NPM

Despite the differences in their constitutional setup, both Hong Kong and Ireland have, since the 1980s, looked approvingly on NPM ideas as the source of administrative reforms. In the pre-handover era, the colonial government in Hong Kong was keen to demonstrate its efforts to safeguard the efficiency and effectiveness of the public sector, calling on “international best practice” in the process (Cheung 1996). From the 1990s on, Hong Kong adopted a number of decentralizing measures to “let the managers manage.” Outsourcing was already a familiar device in Hong Kong’s aggressively free market economy, becoming increasingly popular from the 1990s for the provision of a widening range of government services. Accompanying the various decentralization measures, a wave of initiatives with NPM-sounding labels were introduced: performance pledges, “managing for performance,”

performance reviews, “target based management,” and so on. Tight input controls were relaxed (especially over personnel management), and they were replaced with more rigorous scrutiny of operating plans and results. In the mid-1990s, “framework agreements” were introduced, which required secretaries to draw up annual statements of policy and strategy, and department heads to create departmental operating plans, to be approved by the secretaries. These included performance targets and the resources to be allocated, which were agreed by the secretaries and the directors (Godwin 1995). Similar agreements were also implemented for budget-supported non-departmental agencies.

In Ireland, the impetus for administrative reform also gathered pace during the early 1990s, as the global NPM phenomenon reached Irish shores. The pressure for modernization emerged from within the civil service, culminating in the launch of the Strategic Management Initiative (SMI) in 1994. A host of reform initiatives followed over the course of the next decade. The SMI had its roots in corporate management and emphasized the public accountability of the bureaucracy as well as performance efficiency in public services. The idea was that the public service would be better if administrators were more like managers, with agreed goals and related output targets. A reform plan was developed based around six key themes: (1) Openness, Transparency and Accountability; (2) Quality Customer Service; (3) Regulatory Reform; (4) Human Resource Management; (5) Financial Management; and (6) Information Systems Management. Government departments began to talk about strategic planning and published strategy statements for the first time in 1995, though without sustained political interest (Hardiman and MacCarthaigh 2011).

The reforms resulted in greater devolution of HRM responsibility, but they also brought about the introduction of Freedom of Information and the advancement of investigative and supervisory powers available to parliamentary committees. Some reform of the recruitment system has allowed greater career mobility and (limited) external appointments at senior

levels. Thus, some internationally common features of NPM and its discourse were evident in Ireland by the late 1990s. In 2008, the OECD published the results of an eighteen-month study of the Irish public service, concluding that, since the early 1990s, “Ireland has significantly advanced along a ‘*New Public Management*’ continuum” (OECD 2008, 18). On the face of it, there is no fundamental difference between the two jurisdictions, Hong Kong and Ireland, in their exposure to NPM reforms and their willingness to explore the options offered by it. Neither could be said to be notable as either pioneers or avid adopters of NPM, but both were eager to see what was on offer and to adapt what might suit the local conditions. While the language of performance and other NPM tools might have trickled down into agency management practices, the extent of their adoption and implementation was quite a different matter. It is within this context that we wish to explore our research questions: First, what are the differences between the two polities in terms of the degree of adoption and implementation of various agency management measures, and, second, whether such differences might be explained by the underlying mode of legitimization stipulated by their respective constitutions. We seek to answer these questions through a bivariate comparison on agency governance mechanisms between the two jurisdictions.

Hypotheses, Data and Methods

Overall, we expect that the Irish government will adopt a significantly higher level of input-oriented management measures in governing its executive agencies when compared to Hong Kong (H1), and that the Hong Kong government will adopt a significantly higher level of output-oriented agency management measures than Ireland (H2).

The empirical analysis draws on data collected from the two jurisdictions using the Comparative Public Organization Data Base for Research and Analysis (COBRA) survey instrument administered in 2003 (Ireland) and in 2007 (Hong Kong). This survey has been

used in over fifteen jurisdictions as part of an international research project studying the autonomy and control of state agencies.¹ Questionnaires were sent to agency CEOs seeking information on the tasks, autonomy, and control of their agencies, as well as other variables including age, size, budgets, and legal structure. The research population consisted of executive agencies that fit the criteria defined in the COBRA survey guide: These executive bodies were structurally differentiated from other organizations and existed continuously; they were created by the government and were to some degree supervised by it; they performed a public function, possessed some autonomy in terms of decision-making, and had some personnel and financial resources, funded in part by the government. The response rate for Hong Kong was 57 percent and 44 percent for Ireland (see Table 1).

[[Table 1 here]]

The COBRA survey provided useful information about how agencies were managed in the two jurisdictions (see Appendix A). With regard to the assignment of decision-making autonomies, it measured agency managers' perceived managerial autonomy in three categories: (1) strategic personnel management autonomy (SPA); (2) operational personnel management autonomy (OPA); and (3) financial management autonomy (FMA). It also measured the perceived operational policy autonomy (OPOA), namely whether agency managers were allowed to select policy instruments and target groups without the intervention of their supervising units. We hypothesize that despite the apparently similar impact of NPM in both jurisdictions, more input- or democratic control was maintained among Irish agencies.

As a result of the persisting operational norms of parliamentary democracy and the mandates channeled indirectly through the elected leaders to executive agencies and their executives, we expected that a significantly lower level of (*de facto*) decision-making autonomy would be granted to Irish agencies (H1a). A similar logic applies to the extent that societal

stakeholders are involved to participate directly in supervising the now autonomized agencies. One way to achieve this is through the device of a governing board, appointments to which enable partisan and societal participation in agency management.² Accordingly, we measured the frequency of governing boards with decision-making authority among all agencies, the frequency with which these boards appointed the agency head, and the method by which board members were appointed. Overall, we expected to observe a higher level of supervision through governing boards among the Irish agencies (H1b).

In comparing the relative importance of output or performance control, we focused on practices that monitored output quality as well as those that managed the achievement of results. For quality-based practices, we measured the use of customer surveys, quality standards, quality management systems, and internal units that monitor quality in the agency. For result-based practices, we looked at the extent to which agencies reported their performance publicly and how they managed organizational divisions, and allocated resources based on results. If agency output or performance were key to attaining governing legitimacy, wider adoption of these management practices should be found. We thus expected that higher levels of quality management practices (H2a) and higher levels of result management practices (H2b) would be observed among Hong Kong agencies.

Variables for the autonomy measures were aggregated from indicators similar to other COBRA studies (Painter and Yee 2011). Quality management practices (QMPs) and result management practices (RMPs) were aggregated from the above-mentioned indicators by simple summation. Mann–Whitney U-tests were applied to these variables given that the agencies belong to two categorical, independent groups, with the null hypotheses being that the mean ranks of these variables for Hong Kong and Ireland were identical.³ A significant U-statistic represented a statistically significant difference between the mean ranks, and the null hypothesis was rejected. For other variables concerning the existence of governing board

and the appointment of the agency head and members of the board, results are presented in simple cross-tabulated tables.

Findings

Our analysis found evidence to support H1a. Table 2 shows that the mean ranks of strategic and operational personnel management autonomies were significantly different (at 0.05 level) between the two polities, and that Ireland's were lower than those of Hong Kong.

Interestingly, the mean ranks of financial management autonomy and operational policy autonomy were not significantly different, possible reasons for which are discussed below.

[[Table 2 here]]

Ireland also displayed a much higher use of governing boards in managing agencies (H1b). Among our respondents, 68.8 percent of Irish executive agencies were governed by boards with decision-making authority, with the equivalent figure for Hong Kong being only 39.7 percent (Table 3). Furthermore, Irish government ministers were less likely to appoint members of these governing boards unilaterally. Instead, in a significant percentage of cases (37.5 percent), such decisions were made after consultation with the organization and related interest groups. This percentage was much larger for Hong Kong's board-governed agencies in which, in a great majority of cases (76 percent), board members were appointed unilaterally by the government (Table 4).

[[Table 3 here]]

[[Table 4 here]]

Also, 46.2 percent of Irish government boards were given the power to appoint the head of the agency, compared with 25 percent in Hong Kong (Table 5). All these findings show support for H1b.⁴ Finally, in terms of the adoption of output quality and results management practices, the mean ranks of quality management practices and result management practices

were significantly different (at 0.05 level), with those of Hong Kong agencies significantly larger than those in the Irish case. These findings support our second hypothesis (H2).⁵

[[Table 5 here]]

Discussion

Our results supported the hypothesis that Ireland placed more emphasis on input-based, democratic mechanisms in agency management whereas Hong Kong focused more on output-based, performance-oriented measures. In the Irish parliamentary system of government, there seems to be a larger demand for power-sharing over agency oversight than the executive-led government of Hong Kong. As shown, governing boards in Ireland played a major role here, allowing for better public control over the agencies. Nevertheless, the fact that decisions over agency operations, including the appointment of the agency head and new board members, are subject to board deliberation creates a degree of uncertainty for the ruling party. The limited assignment of various agency autonomies, particularly in terms of personnel management autonomy, reflects this concern.

Despite recent trends in administrative reform and narratives of devolution, relatively tight input-based controls over agency operations were still observed. These controls allow the ruling party to ensure that its agencies will perform as expected and that they will exist largely as implementation bodies. In that vein, the introduction of external controls at the output stage received less attention, as agencies were already operating under tight ministerial input control and mandates negotiated between the elected government and key societal actors.

In the administrative state of Hong Kong, the ruling government faces much weaker institutionalized disagreement and challenge, and there is less need for politically negotiated governance arrangements such as governing boards. Most boards in Hong Kong have

primarily advisory functions and little governing power. Where they do have decision-making power, their members were often appointed by the government alone (Table 4). For its administration to be effective, the government relies more heavily on the experience of bureaucratic agencies at the point of delivery. The Hong Kong agencies in our survey were significantly more likely to adopt output-based quality and result management practices. The findings are especially interesting because both Hong Kong and Ireland have a similar body of civil servants consisting of mainly administrative officers and executive officers, with similar emphasis on competency and neutrality.

No significant difference between the two jurisdictions was observed in terms of the assignment of financial management and operational policy autonomy. Input controls over money are still important in Hong Kong because a key priority of the colonial and early post-colonial state was to retain the confidence and support of Hong Kong's financial sector, which prizes responsible fiscal management and small government. Governments should be seen to be completely on top of the public finances, and the need to retain unity and coherence through the budget process and financial management systems is paramount. On the other hand, the similar level of operational policy autonomy, that is the power to decide on the target groups and policy instruments, could indicate either that the Irish government felt comfortable with letting the agency decide on these rather technical decisions (as tight democratic controls on the agencies' overall policy direction and personnel management were already in place), or that the Hong Kong government was less eager to open its control over these items. Painter and Yee (2012) found that Hong Kong agencies claimed high levels of outside influence when they were setting organizational objectives but that the working relations between agencies and political executives were characterized by mutual cooperation and adaptation. We thus believe that the similar level of autonomy in

Irish agencies represents the confidence of the Irish government in its agencies over policy matters. Further research is warranted here.

In line with our expectations, the constitutional logic underpinning each jurisdiction's administrative arrangements also mediates the influence of international reform ideas such as NPM. In Ireland, agencies created in the 1990s adopted a stakeholder model of board appointments to provide more direct participation in the management of agencies. In these cases, the founding legislation stipulated that a large portion of the governing board members be nominated by various stakeholders and affected groups. Ministers rarely reject such candidates but reserve the right to appoint some of their own people to the board. That is, NPM-style "stakeholder democracy" was interpreted and applied on the input side. In Hong Kong, as discussed above, NPM quality and results management measures were favored, as they fit well with the dominant logic of performance control on the output side. The selective granting of personnel management autonomy, the use of results management, and the widespread adoption of customer feedback measures extended and reinforced the existing governing logic prevailing in Hong Kong.

Looking forward, there have been heated debates about how Hong Kong should move toward a more democratic election of its Chief Executive. Against such a background, a contentious point of governmental reform concerns the issue of satisfying the long-time societal demand for high performance based on administrative competence and political neutrality, while accommodating the growing demand for input control, as reflected in the recent social movement for increased democracy. For one thing, with higher citizen participation in public affairs comes a higher level of scrutiny of public officials' behavior.

More important, both legislative and executive politics can be expected to show higher levels of partisanship, with the potential for new forms of stakeholder and partisan interactions in government decision-making, including demands for expanded forms of patronage and

criticisms among contesting governing elites (for example, alleged charges on each other's conducts and malpractices). Competent managers and social elites who possess policy expertise but lack enthusiasm for bold leadership that may offend customers and clients may be less in demand than well-connected political loyalists who can satisfy particular sectional interests. Many observers fear the growth of particularistic pressures on the input side of public administration in Hong Kong. This tension between the politics of effectiveness and the politics of representativeness seems unavoidable.

In the Irish case, the evolution of agency organization and governance has continued to be strongly informed by norms of democratic control of the administrative apparatus and particularly the accountability of the political executive for the work of agencies. The recent crisis in public finances beginning in 2008 has resulted in a sustained period of agency reform or "rationalization" in a bid to reduce numbers, but little meaningful attention has been given to the strategic use of agencies to achieve higher performance, as advocated by the OECD in 2008. While more attempts are being made to quantify agency outputs in relation to budgetary allocations, the dominant trend has been for the introduction of new HRM and financial controls from central government and a reassertion of political control over their work.

Ironically, the tightening of political control has resulted in the stakeholder model of appointing agency boards coming under pressure, and the new administration elected in 2011 viewed boards as confusing political signals from ministers and committed itself to abolishing them "where appropriate." Attempts to encourage parliament to use agency output and performance statements when discussing financial allocations have met with some limited success, though in a context whereby the ruling coalition tightly controls the work of the legislature. While the pressure for NPM-style performance-based accountability will remain as a goal of reformers in the Irish case, the path of representative democracy will

continue, for better or for worse, to provide the principal avenue for the organization and role of state agencies.

In summary, the findings presented here, based on a “huge comparison” (see Tilly 1984, 144–147) between agency governance in Ireland and Hong Kong, point to the strong influence of the “deep context” of constitutional regime type on how agencies are managed. There are limitations to our data and analysis, such as the potential for self-reporting bias and the relatively small number of N than necessary for more sophisticated statistical analysis. However, our findings are consistent with the general “transformative” ideas proposed by Christensen and Lægreid (2001) concerning the effects of environmental forces on the character of internal bureaucratic development, as well as Pollitt and Bouckaert’s (2011) “many houses” model of administrative reform. Our analysis contributes to the existing literature by demonstrating how basic constitutional differences may affect the level and type of management measures in agency governance.

Conclusion

The study of agency governance represents a renewed research focus on bureaucracy. It extends the existing literature, which explains bureaucratic autonomy through legislative politics, toward understanding variations in agency supervision and management and how they may be linked to a variety of contextual, historical and situational factors, including the underlying constitutional models of legitimization. Our study exemplifies this approach through comparing the jurisdictions of Hong Kong and Ireland, which share similar administrative traditions and structures but which differ in the underlying constitutional rules that define the basis of governing legitimacy.

While not rejecting the potential impacts of other agency-level factors (for example, size, policy types, and tasks), our results support the path dependency argument in administrative

development. Despite NPM reform, democratic states such as Ireland that stress input legitimacy tend to govern agencies by way of pluralistic inputs within a clear ministerial and departmental hierarchy. On the other hand, administrative states such as Hong Kong, which rely more on output legitimacy, tend to regulate effective agency output through more decentralized arrangements, sector by sector. In the case of Hong Kong, key financial controls ensure the coherence and unity of the administration.

The study has a number of implications for practitioners of public management. It encourages senior public managers to realize the degree to which the “deep context” of constitutional setting underpins their management decisions. Such contextual influence matters not only to legal scholars and political scientists but also to public managers in their day-to-day administrative affairs (see, for example, Feldman 2015). International comparisons such as this help uncover the assumptions and implications that may not be immediately apparent from a national perspective. To reformers of public administration around the world, it brings to their attention the influence of a government’s embedded legitimizing principles, which is particularly important for governments of developing countries who want to implement international “best practice” (see, for example, Serra and Stiglitz 2008).

More cross-national comparative work could usefully develop this underexplored relationship between agency governance and constitutional context. While much work has been done to compare agency governance within similar constitutional regimes, such as European parliamentary democracies, the model presented here offers a means of testing and explaining modes of agency governance between different regimes globally. This points the way to advancing the international study of administrative development, and to the possibility of reforms in given political and constitutional contexts.

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[[Appendix A here]]

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Table 1. Background Information of Hong Kong and Ireland

	Hong Kong	Ireland
Surface area (sq. km)*	1,100	70,280
Population (millions)*	7.242	4.613
GNI per capita (current US\$)*	40,320	44,660
Mean agency age (established with the current name) at the time of survey	23.34	19.29
Mean staff number (Full Time Equivalent on 31 March 2006 (Hong Kong) and 30 August 2004 (Ireland))	3,211.74	140.545
Sample size (as percentage of population)	63 (57 percent)	93 (44 percent)
Total population of agency	111	211

* Data from The World Bank. Last updated 31 July 2015.

Table 2. Mann–Whitney U Test: Comparing the mean ranks of agency management practices between Hong Kong and Ireland

Mann–Whitney U Test; H0: Mean ranks are identical	Asymptotic significance*	Remark
Strategic personnel autonomy (SPA)	.001*	Reject H0
Operational personnel autonomy (OPA)	.001*	Reject H0
FMA	.156	Retain H0
Operational policy autonomy (OPOA)	.154	Retain H0
RMP	.000*	Reject H0
QMP	.000*	Reject H0

* Significant at .05 level, with all mean ranks of Hong Kong being larger. T-tests (2-tailed) were also performed to compare the means of these agency management practices between Hong Kong and Ireland. The decisions regarding the hypotheses were the same as above, whether equal variances were assumed.

Table 3. Existence of governing board with decision-making authority

	Hong Kong	Ireland
	Frequency (percentage of respondents/percentage of the population)	Frequency (percentage of respondents/percentage of the population)
No	36 (57.1 / 32.4)	26 (28.0 / 12.3)
Yes*	25 (39.7 / 22.5)	64 (68.8 / 30.3)
Missing	2	3

* Two-proportion z-test (pooled) is applied with H0 as equal sample proportions. The null hypothesis was rejected at the .05 level.

Table 4. Appointment of board members

	Hong Kong	Ireland
	Frequency (percentage)	Frequency (percentage)
By government secretary/minister alone*	19 (76)	31 (48.4)
By government secretary after consultation with the organization and/or interest groups	2 (8)	24 (37.5)
Others	3 (12)	9 (14.1)
Missing	1 (4)	0 (0)
Total	25	64

* Two-proportion z-test (pooled) is applied with H0 as equal sample proportions. The null hypothesis was rejected at the .05 level.

Table 5. Appointment of organizational head

	Hong Kong	Ireland
	Frequency (percentage)	Frequency (percentage)
Neither by government secretary nor governing board	7 (11.1)	12 (12.9)
By government secretary	35 (55.6)	27 (29.0)
By government secretary upon nomination from governing board	3 (4.8)	4 (4.3)
By governing board*	16 (25.4)	43 (46.2)
Missing	2 (3.2)	7 (7.5)

* Two-proportion z-test (pooled) is applied with H0 as equal sample proportions. The null hypothesis was rejected at the .05 level.

Appendix A: Measurement of variables

Variables	Measures (Exact wordings vary slightly in the two surveys. Answers were summed to form the composite indices on the left.)
SPA (Alpha for HK = .865) (Alpha for IRL = .684)	Respondents were asked if they possess the power to set the following items in their organizations (Yes = 1; No = 0): (1) Staff number; (2) Level of Salaries; (3) Conditions for promotions; (4) Staff tenure; (5) Way of evaluating personnel
OPA (Alpha for HK = .827) (Alpha for IRL = .783)	Respondents were asked to what extent they possess the power to do the following items in their organizations (Yes, for all staff = 1; Yes, for most staff = 0.66; Yes, for some staff = 0.33; No = 0): (1) Increase wage of a specific employee; (2) Promote a specific employee; (3) Evaluate a specific employee; (4) Dismiss a single employee
FMA (Alpha for HK = .794) (Alpha for IRL = .648)	Respondents were asked if they possess the power to do the following items in their organizations (Yes = 1; Yes, with conditions = 0.5; No = 0): (1) Take loans; (2) Set charges for services or products; (3) Shift between the budgets for operating expenses; (4) Shift between the budgets of different years
OPOA (Alpha for HK = .842) (Alpha for IR = .738)	Respondents were asked if they have the power to decide on the below items (Organization takes most of the decisions = 6 through Organization takes no decision =1): (1) Target group; (2) Policy instruments
QMP (Alpha for HK = .603) (Alpha for IR = .740)	Respondents were asked to what extent the following practices take place in their organizations (To larger extent = 2; To some extent = 1; No = 0): (1) Customer surveys; (2) Quality standards; (3) Quality management systems; (4) Internal units that monitor quality

RMP (Alpha for HK = .481) (Alpha for IR = .704)	<p>Respondents were asked to what extent the following practices take place in their organizations (To larger extent = 2; To some extent = 1; No = 0):</p> <p>(1) Public reporting of performance* (both financial and non-financial performance); (2) Manage divisions based on results; (3) Allocate resource based on results</p> <p>* This items was measured by two separate questions in the Irish survey. The score was thus an average of the two answers.</p>
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Appendix B: Composition of governing board with decision-making authority

Table B.1 Number of times being the majority (>50 percent) in board

	Hong Kong	Ireland
	Frequency (percentage)	Frequency (percentage)
Central government and other government representatives.	5 (20)	3 (4.7)
Representatives. of stakeholders (for example, employee organizations, employer organizations, stakeholders, employees of the organization, top management, private shareholders)	8 (32)	15 (23.4)
Independent expert representatives	7 (28)	13 (20.3)
Missing	0 (0)	8 (12.5)
Total	25	64

Table B.2 Average percentage in board representation

	Hong Kong (percentage)	Ireland (percentage)
Central government and other government representatives	23.3	18.8
Representatives. of stakeholders (for example, employee organizations, employer organizations, stakeholders, employees of the organization, top management, private shareholders)	37.7	32.6
Independent expert representatives	28.6	32.2
Missing	0	8
Total	25	64

Appendix C: Descriptive statistics and correlations

Table C.1 Correlations (Hong Kong)

	SPA	OPA	FMA	OPOA	QMP	RMP
Mean	2.576	2.601	1.680	9.067	5.140	4.155
(Std. Deviation)	(1.941)	(1.086)	(1.029)	(3.172)	(1.807)	(1.348)
Age	-.036	-.160	-.196	-.042	.197	.153
Staff number	.087	.111	-.214	-.403**	.167	.149
Regulation (dummy)	.097	.085	-.093	-.071	-.186	-.202
Service Provision (dummy)	-.179	-.302*	-.055	-.321*	.201	.131

Table C.2 Correlations (Ireland)

	SPA	OPA	FMA	OPOA	QMP	RMP
Mean	1.501	1.762	1.402	8.122	3.337	3.000
(Std. Deviation)	(1.346)	(1.260)	(1.008)	(3.625)	(2.364)	(1.711)
Age	.023	-.033	.065	.016	.106	.033
Staff number	-.027	.146	.050	.079	.220*	.139
Regulation (dummy)	.056	.168	-.204	.011	.118	.000
Service Provision (dummy)	-.004	-.065	.232*	.016	.025	.099

* Significant at 0.05 level (2-tailed)

Table C.3 Correlations (Hong Kong and Ireland)

	SPA	OPA	FMA	OPOA	QMP	RMP
Mean	1.938	2.101	1.517	8.500	4.056	3.472
(Std. Deviation)	(1.691)	(1.259)	(1.023)	(3.471)	(2.328)	(1.668)
Age	.033	-.027	.012	.014	.078	.145
Staff number	.154	.155	-.084	-.181	.177	.195*
Regulation (dummy)	.040	.093	-.168	-.031	-.083	.003
Service Provision (dummy)	.015	-.033	.149	-.060	.197*	.173*

* Significant at 0.05 level (2-tailed)

Appendix D. Mann–Whitney U Test: Comparing the mean ranks of agency management practices between Hong Kong and Ireland based on policy type and task.⁶

Mann–Whitney U Test; H0: Mean ranks are identical	Exact significance	Remark
Economic Affairs (17, 23)		
SPA	.000*	Reject H0
OPA	.060#	Reject H0
FMA	.001*	Reject H0
OPOA	.186	Retain H0
RMP	.040*	Reject H0
QMP	.050*	Reject H0
Public Order and Safety (7, 9)		
SPA	.171	Retain H0
OPA	.015*	Reject H0
FMA	.586	Retain H0
OPOA	.241	Retain H0
RMP	.065#	Reject H0
QMP	.014*	Reject H0
Recreational, Culture and Religion (6, 9)		
SPA	.126	Retain H0
OPA	.283	Retain H0
FMA	.886	Retain H0
OPOA	.562	Retain H0
RMP	.090#	Reject H0
QMP	.565	Retain H0
General (12, 8)		
SPA	.481	Retain H0
OPA	.024*	Reject H0
FMA	.399	Retain H0
OPOA	.043*	Reject H0
RMP	.069#	Reject H0

QMP	.019*	Reject H0
Regulation (25, 43)		
SPA	.013*	Reject H0
OPA	.073#	Reject H0
FMA	.182	Retain H0
OPOA	.609	Retain H0
RMP	.120	Retain H0
QMP	.041*	Reject H0
Service Provision (42, 39)		
SPA	.053#	Reject H0
OPA	.021*	Reject H0
FMA	.597	Retain H0
OPOA	.928	Retain H0
RMP	.003*	Reject H0
QMP	.000*	Reject H0

* Significant at .05 level. # Significant at .10 level.

Appendix E. Number of respondents as a percentage of the population by policy type

UN Classification system	Number of respondents as a percentage of the population	
	Hong Kong	Ireland
01. General public service	50	25
02. Defense	-	0
03. Public order and safety	87.5	36
04. Economic affairs	50	55
05. Environmental affairs	100	80
06. Housing and community amenities	76.9	100
07. Health	12.5	56
08. Recreational, culture and religion	75	47
09. Education	71.4	38
10. Social protection	42.9	39
Total	56.8	44

Endnotes

¹ See also <http://soc.kuleuven.be/io/cost/survey/index.htm> for details (accessed September 2, 2015).

² We note that some scholars (for example, Yesilkagit and Christensen 2010) consider boards to be outside of the standard delegation model within parliamentary systems, whereby boards may compete with ministers to determine the work of agencies.

³ We thank the anonymous reviewer for the suggestion.

⁴ Appendix B looks into the compositions of these governing boards. Judging from both their number of times being the majority and the average percentage of board representation, we found that neither government, stakeholders, nor independent experts was predominantly represented in these boards. Thus, as far as the internal discussion was concerned, governing boards seemed to serve mainly input-based democratic oversight purposes for both polities.

⁵ To check if the significant differences are related to other factors, we analyzed the correlations between the corresponding variables and agency age, size (staff number), and their primary tasks (regulation and service provision) (Appendix C). Also, Mann–Whitney U-tests were performed on agencies belonging to various policy tasks to see if the mean ranks of the variables were identical (Appendix D). Overall, the results corresponded with our expectations, with the exception that significant correlations (at 0.05 level) were observed between, in Hong Kong, service provision and OPA; in Ireland, staff number and QMP; and, in the combined sample, staff number and RMP, service provision and QMP as well as RMP. Also, we find only small difference in the category “Recreational, Culture, and Religion.” As acknowledged below, this study does not reject the possible influence of agency-level factors such as agency size, policy type, and tasks. Future research (for example, large-N and cross-country) is recommended to identify the antecedents for the adoption of various agency management practices.

⁶ The numbers in the blanket indicate the number of agencies belonging to that categories in both polities. Executive agencies were grouped largely by self-reported primary policy type and task. The grouping of agency policy type was based on the UN classification system (see Painter and Yee 2011). For accuracy, categories with larger than five organizations in each polity were included for comparison. Appendix E presents the number of respondents as a percentage of the population by the same classification.